

**US ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

**CONCENTRATED ANIMAL FEEDING OPERATIONS (CAFOs)
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)
GENERAL PERMIT NO. AZG800000
FOR
THE STATE OF ARIZONA**

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PART I. AUTHORITY

This permit is issued pursuant to Clean Water Act, section 402.

PART II. PERMIT COVERAGE

A. Area

The permit covers the State of Arizona and Indian Country in Arizona subject to the jurisdiction of the following Indian Tribes: Ak-Chin, Cocopah, Colorado River, Fort McDowell Mohave-Apache, Fort Mohave, Fort Yuma-Quechan, Gila River, Havasupai, Hopi, Hualapai, Kaibab Paiute, Navajo, Pascua Yaqui, Salt River Pima-Maricopa, San Carlos, San Juan Southern Paiute, Tohono O'odham, Tonto Apache, White Mountain Apache, Yavapai-Apache (Camp Verde), and Yavapai-Prescott.

B. Sources

The permit covers concentrated animal feeding operations (CAFOs*) in the permit area, except any CAFO* that:

1. has been notified by the Director to apply for an individual permit pursuant to 40 CFR 122.28(b)(3);
2. is likely to adversely affect a listed or proposed to be listed endangered or threatened species or its critical habitat;
3. is likely to adversely affect properties listed or eligible to be listed in the National Register of Historic Places; or
4. becomes a CAFO* after the effective date of this permit* and meets any of the following conditions: (a) discharges* to a water quality limited segment* listed for: total nitrogen, nitrogen species, total phosphorus, turbidity, fecal coliform or E.Coli , (b) discharges* to a 'Unique Water' identified in Arizona Administrative Code R18-11-112, or (c) is located within the 100 year floodplain.

C. Reopener Clause for Endangered Species Protection

This permit may be modified or revoked and reissued based on the results of Endangered Species Act section 7 consultation with the U.S. Fish and Wildlife Service.

PART III. APPLICATION FOR COVERAGE

A. Notice of Intent

An owner or operator of a CAFO* seeking coverage under this permit must submit a completed 'Notice of Intent to be Covered by General Permit No. AZG800000 for Concentrated Animal

* indicates term defined in Part VII.

Feeding Operations' (NOI), attached as Appendix A, to:

US EPA, Region 9
Attn.: AZG800000/NOI, WTR-7
75 Hawthorne St.
San Francisco, CA 94105.

An owner or operator seeking coverage for a CAFO* not in Indian Country subject to the jurisdiction of an Indian Tribe identified in Part II.A. must submit a copy of the completed NOI to:

Arizona Department of Environmental Quality
Water Quality Compliance Section
Mail Code M0501
3033 N. Central Avenue
Phoenix, AZ 85012.

An owner or operator seeking coverage for a CAFO* in Indian Country subject to the jurisdiction of an Indian Tribe identified in Part II.A. must submit a copy of the completed NOI to the appropriate Indian Tribe. See, Appendix D, Contact Names and Addresses.

B. Deadline for Notice of Intent

The deadline for submitting a completed NOI is:

1. For an operation which is a CAFO* on the effective date of the permit*, 180 days after the effective date of the permit*;
2. For an operation designated as a CAFO* pursuant to 40 CFR 122.23(c), 90 days after designation as a CAFO*; and
3. For an operation which becomes a CAFO* after the effective date of the permit*, 90 days before the operation becomes a CAFO*.

C. Additional Information Regarding New CAFOs

A person seeking coverage under this permit for an operation which becomes a CAFO* after the effective date of the permit* and which meets the definition of a "new source" as provided in Part VII.S of this permit, must also submit to EPA, and to the State or Indian Tribe, as appropriate, an 'Environmental Information Document' (EID), containing the information identified in Appendix C, no later than 90 days before the operation becomes a CAFO*. For assistance in determining whether an operation which becomes a CAFO* after the effective date of the permit meets the definition of new source*, please contact Shirin Tolle at (415) 744-1898 or Jacques Landy at (415) 744-1922.

* indicates term defined in Part VII.

D. Commencement of Authorization to Discharge

Authorization to discharge* from an eligible CAFO* in accordance with the permit begins:

1. For an operation which is a CAFO* on the effective date of the permit*, or designated as a CAFO* pursuant to 40 CFR 122.23(c), 24 hours after a complete and timely NOI is mailed to EPA; and
2. for an operation which becomes a CAFO* after the effective date of the permit*, 90 days after a complete and timely NOI and EID is mailed to EPA, unless the CAFO* is notified by EPA during the 90-day period following mailing of the NOI and EID, that more than 90 days are required to process the NOI and conduct the National Environmental Policy Act review required by 40 CFR 122.29(c).

E. Expiration, Termination or Revocation of Coverage

This permit expires five years after its effective date*. If this permit is not reissued prior to its expiration date, it will be administratively continued in accordance with the Administrative Procedures Act and any discharger authorized by this permit prior to the expiration date will remain authorized under this permit until (i) the permit is reissued or (ii) EPA publishes a determination not to reissue this permit. In accordance with 40 CFR 122.28(b)(3), EPA may require any discharger authorized by the permit to apply for and obtain an individual NPDES permit, and terminate or revoke coverage under this general permit. In accordance with 40 CFR 122.28(b)(3), any owner or operator authorized by the permit may request to be excluded from coverage of the general permit by applying for an individual permit.

PART IV. PERMIT REQUIREMENTS

A. Effluent Limitations and Discharge Prohibitions

1. There shall be no discharge* of waste, process waste water*, or process waste water pollutants to waters of the United States* except when storm events, either chronic* or catastrophic*, cause an overflow of process waste water from a facility properly designed, constructed, maintained, and operated to contain:
 - a. All process generated waste waters* resulting from the operation of the CAFO* (such as wash water, parlor water, watering system overflow); plus
 - b. All contaminated runoff from a 25-year, 24-hour storm event*.
2. Except for discharges* which are
 - a. composed entirely of storm water runoff, snow melt runoff and/or
 - b. return flows from irrigated agriculture,originating from a land area upon which manure* and/or waste water* from a

* indicates term defined in Part VII.

CAFO* has been applied in accordance with a Best Management Practices* Plan (BMP Plan) under Part IV.B.1 and with a Nutrient Management Plan* (NMP) under Part IV.B.3.a, there shall be no discharge* which causes or contributes to a violation of a State or, if appropriate, tribal water quality standard*.

3. Discharges* of manure* or process waste water* from waste water control or retention structures* to waters of the United States* by means of a hydrologic connection* are prohibited.

B. Special Conditions

1. Best Management Practices (BMP) Plan

a. Deadlines for developing and implementing a BMP Plan.

A permittee must develop and implement a BMP* Plan for the CAFO* covered by this permit:

- i. For an operation which is a CAFO* on the effective date of the permit*, by one year after the effective date of the permit*;
- ii. For an operation designated as a CAFO* pursuant to 40 CFR 122.23(c), by one year after designation as a CAFO*; and
- iii. For an operation which becomes a CAFO* after the effective date of the permit*, by the date on which the NOI for the CAFO* is submitted.

b. Submission of BMP Plans for New CAFOs*

A permittee for an operation which becomes a CAFO* after the effective date of the permit* must submit the BMP* Plan with the original and the copy of the NOI for that CAFO* to the agencies listed in Part III.A, as appropriate.

c. Content of BMP Plan

A BMP* Plan must:

- i. be developed in accordance with standard engineering practices as defined by the U.S. Department of Agriculture, Natural Resources Conservation Service (NRCS), National Engineering Handbook, Part 651, Agricultural Waste Management Field Handbook available at <ftp://ftp.ftw.nrcs.usda.gov/pub/awmfh>, or any subsequent NRCS revision of Part 651 which the permittee references in the BMP* Plan;

* indicates term defined in Part VII.

- ii. describe the BMPs* and Minimum Standards which the permittee will implement to assure compliance with the permit;
- iii. demonstrate that the waste water control or retention structures* are adequately designed (in accordance with NRCS Conservation Practice Standard Code 313 - Waste Storage Facilities or any subsequent NRCS revision of Standard 313 which the permittee references in the BMP* Plan) and can achieve the effluent limitations and discharge prohibitions of Part IV.A. above;
- iv. identify the persons responsible for developing, implementing, and revising the BMP* Plan (including its inspection and record keeping procedures), and describe their respective activities and responsibilities;
- v. include a map showing the drainage pattern, surface water bodies, and existing waste water control or retention structures*;
- vi. list the significant chemicals and/or hazardous substances* that are used, stored or disposed of at the CAFO*, and describe any significant spills* of these chemicals and/or hazardous substances* at the CAFO* after the effective date of this permit*;
- vii. describe activities and chemicals and/or hazardous substances* which may be a potential pollutant* source, including sources which may reasonably be expected to add pollutants* to runoff from the facility;
- viii. include all existing sampling data obtained pursuant to Part V.B;
- ix. describe the inspection and record keeping procedures which the permittee will implement pursuant to Part IV.B.4;
- x. describe an appropriate schedule for preventive maintenance and good housekeeping;
- xi. identify areas which have a high potential for significant soil erosion and describe measures to limit erosion and pollutant* runoff;
- xii. describe an employee training program pertaining to permit compliance;
- xiii. be signed in accordance with Part VI.E.; and
- xiv. be updated as appropriate.

* indicates term defined in Part VII.

2. Minimum Standards

Minimum Standards are applicable to the CAFO operation upon issuance of the permit and are to be incorporated into the CAFO's BMP* Plan.

a. Diversion of Run-on

The permittee shall isolate feedlots* and associated wastes* from outside surface drainage by ditches, dikes, berms, terraces or other waste water control or retention structures, designed to carry, store or contain peak flows during the 25-year, 24-hour storm event*. The permittee must protect any waste water control or retention structure* by berms or other appropriate structures to prevent inundation that may occur during a 25-year, 24-hour flood event. The permittee should consult with the County Flood Control District in order to ensure that any measures taken to comply with this requirement are consistent with Arizona law.

b. Waste Water Control or Retention Structure Freeboard

To maintain adequate capacity in waste water control or retention structures*, the permittee shall establish and maintain a minimum freeboard* for all waste water control or retention structures* adequate to prevent berm failure and overflow during normal operating conditions and to ensure compliance with the permit conditions.

c. CAFO Expansion

The permittee shall not expand its CAFO*, either in size or number of animals, before making a determination and ensuring that wastes* generated by the expansion will not exceed the design capacity of the waste water control or retention structures*.

d. Land Application of Manure

Manure* or process waste water* must not be applied on land that is flooded, saturated with water, frozen or snow covered, where such conditions could reasonably be expected to result in a discharge of manure or process waste water to waters of the United States*.

e. Buffers and Equivalent Practices

The permittee shall maintain buffer strips or other equivalent practices near feedlots*, manure storage areas, and land application areas that are sufficient to minimize discharge of pollutants* to waters of the United States*.

* indicates term defined in Part VII.

f. Chemical Handling

The permittee shall ensure that wastes* from facility activities such as dipping and/or pest/parasite control and hazardous substances* or toxic pollutants* do not enter any waters of the United States*.

g. Disposal of Material into Waste Water Control or Retention Structures

The disposal of any hazardous substances* or toxic pollutants*, other than discharges* associated with proper operation and maintenance of the CAFO*, into waste water control or retention structures* is prohibited.

h. Dead Animals

The permittee must dispose of dead animals in a manner that prevents contamination of waters of the United States*.

i. Spills

The permittee must take appropriate measures to prevent and clean up spills* of any pollutants*, and to report spills* as required by Part VI.D.3.

j. Facility Closure

The permittee shall close all waste water control or retention structures* in accordance with NRCS Conservation Practice Standard Code 360 - Closure of Waste Impoundments or any subsequent NRCS revision of Conservation Practice Standard Code 360 which the permittee references in the BMP* Plan.

l. Liner Requirements for New Waste Water Control or Retention Structures

Waste water control or retention structures* constructed after the effective date* of this permit shall incorporate either a synthetic or soil liner in accordance with NRCS Agricultural Waste Management Field Handbook Part 651.1080 Appendix 10D - Geotechnical, Design and Construction Guidelines as posted at <http://www.nrcg.nrcs.usda.gov/awmfh.html> or <ftp://ftp.ftw.nrcs.usda.gov/pub/awmfh/> on August 24, 1998, or any subsequent NRCS revision of Part 651.1080 Appendix 10D which the permittee references in the BMP* Plan.

* indicates term defined in Part VII.

3. Nutrient Management

a. Nutrient Management Plan* (NMP)

If manure* or process waste water* is applied to land under the operational control of the permittee, the permittee shall, no later than (i) two years after the effective date of the permit* or (ii) thirty (30) days before beginning land application*, whichever is later, develop a Nutrient Management Plan* (NMP) approved by Arizona NRCS or a Certified Nutrient Management Planning Specialist*. The NMP* must provide that waste*, process waste water* and soil sampling shall be conducted in accordance with the most current version of NRCS Conservation Practice Standard - Arizona Nutrient Management, Code 590.

b. On-site Land Application of Manure or Process Waste Water

The permittee shall not land apply manure* or process waste water* unless the permittee has completed an NMP* and determined a site-specific, quantified land application* rate that does not exceed the capacity of the soil and the planned crops to assimilate nutrients based on the most limiting nutrient in the soil (e.g., phosphorus or nitrogen), type of crop, realistic crop yields, soil type, and all nutrient inputs in addition to those from the manure* or process waste water*. The permittee shall not land apply manure* or process waste water* in excess of the land application* rate which it has determined under the NMP*.

c. Land Application Monitoring

On each day during which manure* or process waste water* is land applied by the permittee, the permittee shall record the following information to determine compliance with the land application* rate:

- i. quantity of manure* or process waste water* applied (in gallons/day, cubic feet/day, or acre-inches/day),
- ii. land application* rate (in tons/acre or lbs/acre of process waste water* or manure*), and
- iii. application area (in acres).

d. Off-site Land Application of Manure or Process Waste Water

If the permittee provides manure* or process waste water* generated at the CAFO* to another person for off-site land application*, the permittee must:

- i. provide to the applier the nutrient values expected to be found in

* indicates term defined in Part VII.

the manure* or process waste water*;

- ii. inform the applicer of the requirements of Arizona Administrative Code Title 18, Chapter 9, Article 4, pertaining to Agricultural General Permits (reproduced in Appendix E);
- iii. record the amount of manure* or process waste water* that leaves the permitted operation; and
- iv. for quantities greater than 100 tons provided to a single recipient per week, record the name and address of the recipient.

4. Inspections and Record Keeping

- a. The permittee shall retain a copy of the NOI, permit, BMP* Plan, NMP* and other records required to be maintained under the permit at the CAFO*.
- b. The permittee shall ensure each year that the person or persons identified pursuant to Part IV.B.1.c.iv as responsible for implementing the BMP* Plan's inspection and record keeping procedures completely inspects the CAFO* and completes a report of the findings of the inspection. The report must state:
 - i. whether the BMP* Plan's description of potential pollutant* sources is accurate,
 - ii. if the drainage map shows current conditions or must be updated,
 - iii. what pollutants* have entered the waste water control or retention structures*, and
 - iv. whether the minimum standards are being implemented and are adequate.
- c. Waste Water Control or Retention Structure* Inspection and Monitoring
 - i. Monthly (and in any event within five days of each chronic rainfall* or catastrophic storm event*), the permittee shall inspect the waste water control or retention structures for berm integrity, cracking, slumping, excess vegetation, burrowing animals and seepage.
 - ii. Quarterly (and in any event within five days of each chronic rainfall* or catastrophic storm event*), waste water control or retention structure* freeboard* (in feet) shall be monitored and recorded. Freeboard* records shall be kept with the BMP plan.

* indicates term defined in Part VII.

PART V. DISCHARGE NOTIFICATION AND MONITORING

A. Discharge Notification

The permittee must report any discharge*: within 24 hours, by verbal notification to EPA at (415) 744-1905; and, within five (5) days of the discharge*, by written notification to EPA and to the State or Indian tribe, as appropriate. The notification must include:

1. a description of the discharge* and cause, whether excess precipitation, snow melt, or other specified causes;
2. the date and time of the discharge*, its duration and, if not corrected, the anticipated time the discharge* is expected to continue;
3. a description of the path to the receiving water and the name of the receiving stream;
4. an estimate of the flow and volume discharged;
5. if the discharge* was caused by a precipitation event, information concerning the size of the precipitation event from the National Weather Service or on-site rain gauge;
6. the name of the person recording the discharge*; and
7. a description of steps being taken to reduce, eliminate and prevent recurrence of the discharge*.

B. Discharge Monitoring

The permittee must sample and analyze grab samples from all overflows or discharges* from the waste water control or retention structures* for the following analytes:

1. fecal coliform bacteria;
2. 5-day Biochemical Oxygen Demand (BOD₅);
3. Total Suspended Solids (TSS);
4. ammonia (NH₃-N); nitrite (as N), nitrates (as N), total Kjeldahl nitrogen (TKN as N); and
5. total phosphorus (as P);

The permittee shall: (a) collect the sample within 30 minutes of commencement of the discharge*; or (b) if sampling in that period is inappropriate due to dangerous weather, flooding or other conditions, collect the sample as soon as possible after suitable conditions occur, and document the reason for the delay.

* indicates term defined in Part VII.

C. Sampling Methods and Procedures

Within 60 days of commencement of authorization to discharge* as provided by Part III.D of this permit, the permittee shall select a licensed Arizona laboratory and inform the laboratory of the analytes to be sampled. The permittee shall obtain the following polyethylene sampling bottles from the laboratory: one 250 ml bottle for bacterial analysis, one 500 ml bottle for BOD₅ and TSS, and one 500 ml bottle for nutrients. These bottles shall be kept ready on-site along with an ice-chest. An on-site source of ice shall be identified for sample preservation. Samples shall be taken as grab samples directly from the end of pipes or from ditches or surface waters. Sample bottles shall not touch solid surfaces during sampling. Sample bottles shall be filled completely, and shall be packed in ice in the ice-chest and delivered to the identified laboratory within six hours of sampling. At the laboratory, the sampler or a designee identified by the sampler in the field log shall sign the 'relinquished by' box on a form which shall be provided by the laboratory. On this form, the sampler or designee shall note date and time when the samples are delivered. The sampler or designee shall inform laboratory of sample type (waste water) and analyses to be performed.

D. Sample Documentation and Transport

The permittee shall record the following information at the time of the sampling event and shall include the information with the facility's BMP* Plan pursuant to Part IV.B.1.c.viii of this permit:

1. Sample location and description of discharge*;
2. Sampler's name(s);
3. Date and time of sample collection;
4. Date and time that sample arrived at laboratory; and
5. Name of person delivering sample to laboratory.

PART VI. STANDARD PERMIT CONDITIONS

A. General Conditions

1. Introduction:
In accordance with the provisions of 40 CFR 122.41, et seq., this permit incorporates by reference ALL conditions and requirements applicable to NPDES Permits set forth in the Clean Water Act, as amended, (hereinafter known as the "Act") as well as ALL applicable regulations.
2. Duty to Comply:
The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Act* and is grounds for enforcement action; for permit termination, revocation, and reissuance; for denial of a permit renewal application; and/or for requiring a permittee to apply for and obtain an individual NPDES permit.

* indicates term defined in Part VII.

3. Toxic Pollutants:
The permittee shall comply with effluent standards and prohibitions established under section 307(a) of the Act* for toxic pollutants* within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.
4. Permit actions:
This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request for a permit modification, revocation and re issuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
5. Property rights:
The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State/Tribal or local laws or regulations.
6. Duty to provide information:
The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
7. Criminal and Civil Liability:
Nothing in this permit will be construed to relieve the permittee from civil or criminal penalties for noncompliance. Any false or materially misleading representation or concealment of information required to be reported by the provisions of the permit, the Act*, or applicable regulations which avoids or effectively defeats the regulatory purpose of the permit may subject the permittee to criminal enforcement pursuant to 18 U.S.C. Section 1001.
8. State/Tribal Laws:
Nothing in this permit will be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State/Indian Tribe law or regulation under authority preserved by section 510 of the Act*.
9. Severability:
The provisions of this permit are severable, and if any provision of this permit or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, will not be affected thereby.

B. Proper Operation and Maintenance

1. Need to halt or reduce activity not a defense:

* indicates term defined in Part VII.

It will not be a defense for a permittee in an enforcement action to plead that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

2. Duty to mitigate:
The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.
3. Proper operation and maintenance:
The permittee shall, at all times, properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes the operation of backup or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

C. Monitoring and Records

1. Inspection and entry:
The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:
 - a. enter the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
 - b. have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
 - c. inspect, at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
 - d. sample or monitor, at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by the Act*, any substances or parameters at any location.
2. Representative sampling:
Samples and measurements taken for the purpose of monitoring will be representative of the monitored activity.
3. Retention of records:
The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample,

* indicates term defined in Part VII.

measurement, report, or application. This period may be extended by request of the Director at any time.

4. Record content:

Records of monitoring information shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

5. Monitoring procedures:

Monitoring must be conducted according to test procedures approved under 40 CFR Part 136, unless other test procedures have been specified in this permit or approved by the Regional Administrator. The requirements at 40 CFR Part 136 may be accessed at the following web-site:

<http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1>

D. Reporting Requirements

1. Anticipated Noncompliance:

The permittee shall give advance notice to the Director of any planned physical alterations or additions or changes in activity which may result in noncompliance with permit requirements.

2. Transfers:

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the Clean Water Act (CWA). (See 40 CFR 122.61; in some cases, modification or revocation and reissuance is mandatory.)

3. Twenty-four hour reporting:

The permittee shall report any noncompliance which may endanger human health or the environment. Any information must be provided orally to the EPA Region IX, via its 24-hour voice mail system, telephone number 415/744-1905 within 24 hours from the time the permittee becomes aware of the noncompliance circumstances. Notice will also be provided to ADEQ or the Tribal Authority, as appropriate. A written submission shall also be provided within 5 days of the time the permittee becomes aware of the circumstances. The report must contain the following information:

* indicates term defined in Part VII.

- a. a description of the noncompliance and its cause;
 - b. the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and,
 - c. steps being taken to reduce, eliminate, and prevent recurrence of the noncompliance.
4. Other information:
Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, the permittee shall promptly submit such facts or information to the Director.

E. Signatory requirements

All applications, reports, or information submitted to the Director will be signed and certified consistent with 40 CFR § 122.22:

- 1. All permit applications will be signed as follows:
 - a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
 - i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or,
 - ii. The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for permit application requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or
 - b. For a partnership or sole proprietorship: By a general partner or the proprietor, respectively,

By the co-permittee (if determined to be operator).

* indicates term defined in Part VII.

2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
 - a. the authorization is made in writing by a person described above;
 - b. the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. A duly authorized representative may thus be either a named individual or an individual occupying a named position; and,
 - c. the written authorization is submitted to the Director.

F. Certification

Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

G. Availability of Reports

Any information submitted pursuant to this permit may be claimed as confidential by the submitter. If no claim is made at the time of submission, information may be made available to the public without further notice.

H. Penalties for Violations of Permit Conditions

1. Criminal Penalties

- a. Negligent violations: The Act* provides that any person who negligently violates Section 301, 302, 306, 307, 308, 318, or 405 of the Act* or any condition or limitation implementing those provisions in a permit issued under Section 402 is subject to a fine of not less than \$2,750 nor more than \$27,500 per day of violation, or by imprisonment for not more than one year, or both.
- b. Knowing violations: The Act* provides that any person who knowingly

* indicates term defined in Part VII.

violates Section 301, 302, 306, 307, 308, 318 or 405 of the Act* or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$275,000, or by imprisonment for not more than 15 years, or both.

- c. Knowing endangerment: The Act* provides that any person who knowingly violates Sections 301, 302, 303, 306, 307, 308, 318, or 405 of the Act* or permit conditions implementing those provisions and who knows at that time that he is placing another person in imminent danger of death or serious bodily injury is subject to a fine of not more than \$275,000 , or by imprisonment for not more than 15 years, or both.
- d. False statements: The Act* provides that any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under the Act* or who knowingly falsifies, tampers with, or renders inaccurate, any monitoring devise or method required to maintained under the Act*, shall upon conviction, be punished by a fine of not more than \$11,000, or by imprisonment for not more than two years, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this paragraph, punishment shall be by a fine of not more than \$22,000 per day of violation, or by imprisonment of not more than four years, or by both. [See Section 309(c)4 of the Clean Water Act]

2. Civil Penalties

The Act* provides that any person who violates a permit condition implementing Sections 301, 302, 306, 307, 308, 318, or 405 of the Act* is subject to a civil penalty not to exceed \$27,500 per day for each violation. [See Section 309(d)]

3. Administrative Penalties

The Act* provides that the Administrator may assess a Class I or Class II administrative penalty if the Administrator finds that a person has violated Sections 301, 302, 306, 307, 308, 318, or 405 of the Act* or a permit condition or limitation implementing these provisions, as follows [See Section 309(g)]:

- a. Class I penalty; Not to exceed \$11,000 per violation nor shall the maximum amount exceed \$27,500.
- b. Class II penalty: Not to exceed \$11,000 per day for each day during which the violation continues nor shall the maximum amount exceed \$137,500.

* indicates term defined in Part VII.

I. Upset

1. Definition:
“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with Part IV.A.1 of this permit because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. Effect of an upset:
An upset constitutes an affirmative defense to an action brought for noncompliance with Part IV.A.1 of this permit if the requirements of Part VII.3 of this permit are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.
3. Conditions necessary for a demonstration of upset:
A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and that the permittee can identify the cause(s) of the upset;
 - (ii) The permitted facility was at the time being properly operated;
 - (iii) The permittee submitted notice of the upset as required in Part V.A of this permit (24-hour notice); and
 - (iv) The permittee complied with any remedial measures required under Part VI.B.2 of this permit.
4. Burden of proof:
In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

PART VII. DEFINITIONS

A. 25-Year, 24-Hour Storm Event

means the maximum 24-hour precipitation event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States", May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom. A current map showing the 25-year, 24-hour precipitation event may be viewed at the following website: <http://www.wrcc.dri.edu/pcpnfreq/az25y24.gif>, which is maintained by the Western Regional Climate Center, accessible through the Home Page for the Hydrometeorological Design Studies Center, part of the National Weather

* indicates term defined in Part VII.

Service's Office of Hydrology.

B. Animal Feeding Operation

is defined at 40 CFR 122.23(b) as: “(1)... a lot or facility (other than an aquatic animal production facility) where the following conditions are met: (i) Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and (ii) Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (2) Two or more animal feeding operations under common ownership are considered, for the purposes of these regulations, to be a single animal feeding operation if they adjoin each other or if they use a common area or system for the disposal of wastes.”

C. Application

means a written "notice of intent" pursuant to 40 CFR 122.28.

D. Best Management Practices (“BMPs”)

Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States*. Best Management Practices also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste* disposal, or drainage from raw material storage.

E. Catastrophic Storm Event

is equivalent to a 25-year, 24-hour storm event*. Catastrophic events include tornadoes, hurricanes or other catastrophic conditions that would cause an overflow from a waste water control or retention structure* that is designed, constructed, operated and maintained to meet all the requirements of this permit.

F. Certified Nutrient Management Planning Specialist

is a person, including a CAFO operator or other third party vendor, who has completed the following training and who has received approval by the Natural Resources Conservation Service (NRCS) as a “Certified Nutrient Management Planning Specialist.” A Certified Nutrient Management Planning Specialist has the authority to plan or approve Nutrient Management Plans* (NMPs) under this permit.

1. The following NRCS web-based classes, located at <http://www.ftw.nrcs.usda.gov/nedc/homepage.html>, must have been completed and passed by a person training to be a Certified Nutrient Management Planning Specialist prior to that person undertaking the training described in subsection 2 below:
 - a. "Introduction to Water Quality",
 - b. "Nutrient Management Considerations in Conservation Planning", and
 - c. "Agricultural Waste Management Systems - A Primer".
2. The following NRCS-Arizona 1-day Nutrient Management Training Course must have been completed and passed by a person training to be a

* indicates term defined in Part VII.

Certified Nutrient Management Planning Specialist prior to that person being eligible to obtain approval by the NRCS as a Certified Nutrient Management Planning Specialist:

- a. Conservation Planning Course Modules 1-5,
- b. Federal Regulations,
- c. Arizona Regulations, and
- d. "Arizona Nutrient Management Considerations in Conservation Planning".

G. Chronic Rainfall

is a series of wet weather conditions that preclude de-watering of properly maintained waste water control or retention structures*.

H. Concentrated Animal Feeding Operation (CAFO)

is defined at 40 CFR 122.23(b) to mean an animal feeding operation* which meets the criteria in appendix B of 40 CFR 122, or which the Director so designates.

Appendix B to Part 122-Criteria for Determining a Concentrated Animal Feeding Operation (122.23) states that: "An animal feeding operation is a concentrated animal feeding operation for purposes of 122.23 if either of the following criteria are met.

- (a) More than the numbers of animals specified in any of the following categories are confined:
 - (1) 1,000 slaughter and feeder cattle,
 - (2) 700 mature dairy cattle (whether milked or dry cows),
 - (3) 2,500 swine each weighing over 25 kilograms (approximately 55 pounds),
 - (4) 500 horses,
 - (5) 10,000 sheep or lambs,
 - (6) 55,000 turkeys,
 - (7) 100,000 laying hens or broilers (if the facility has continuous overflow watering),
 - (8) 30,000 laying hens or broilers (if the facility has a liquid manure system),
 - (9) 5,000 ducks, or
 - (10) 1,000 animal units; or
- (b) More than the following number and types of animals are confined:
 - (1) 300 slaughter and feeder cattle,
 - (2) 200 mature dairy cattle (whether milked or dry cows),
 - (3) 750 swine each weighing over 25 kilograms (approximately 55 pounds),
 - (4) 150 horses,
 - (5) 3,000 sheep or lambs,
 - (6) 16,500 turkeys,
 - (7) 30,000 laying hens or broilers (if the facility has continuous overflow watering),
 - (8) 9,000 laying hens or broilers (if the facility has a liquid manure system),
 - (9) 1,500 ducks, or
 - (10) 300 animal units;

and either one of the following conditions are met: pollutants are discharged into

* indicates term defined in Part VII.

navigable waters through a manmade ditch, flushing system or other similar man-made device; or pollutants are discharged directly into waters of the United States which originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation.

Provided, however, that no animal feeding operation is a concentrated animal feeding operation as defined above if such animal feeding operation discharges only in the event of a 25 year, 24-hour storm event.”

I. Discharge

means the “discharge of a pollutant”.

J. Discharge of a Pollutant

means any addition of any pollutant or combination of pollutants to waters of the United States* from any point source. This definition includes additions of pollutants into waters of the United States from: surface water runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a State, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances leading into privately owned treatment works. [See, 40 CFR 122.2.]

K. Effective Date of the Permit

is August 27, 2001.

L. Feedlot

means a concentrated, confined animal or poultry growing operation for meat, milk, or egg production, or stabling, in pens or houses wherein the animals or poultry are fed at the place of confinement and crop or forage growth or production is not sustained in the area of confinement.

M. Freeboard

means the linear distance in feet from the structural top of a berm (usually defined by a road or access path) to the operational level of waste water in a retention structure.

N. Ground Water

means any subsurface waters.

O. Hazardous Substance

means any substance designated under 40 CFR 116 pursuant to section 311 of the Act*. A list of currently designated hazardous substances is included in 40 CFR 116.4, Table 116.4A. 40 CFR 116.4 may be obtained at the following web-site: <http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1>, by entering the following numbers: Title 40, Part 116, and Section 4 for the “most recent available” revision year. Alternatively, a paper copy of 40 CFR 116.4, Table 116.4A may be obtained by contacting U.S. EPA Region 9’s CWA Standards and Permits Office at (415) 744-1898 or (415) 744-1922.

* indicates term defined in Part VII.

- P. Hydrologic Connection**
means a discrete connection between groundwater and surface water, e.g. percolation from a waste impoundment or improper land application* resulting in down-gradient seepage into waters of the United States*.
- Q. Land Application**
means the application of process waste water or waste onto or incorporation into the soil.
- R. Manure**
means animal waste.
- S. New Source**
means the following as defined under 40 CFR 122.29 (b)(1):
“(i) It is constructed at a site at which no other source is located; or (ii) It totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (iii) Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Director shall consider such factors as the extent to which the new facility is integrated with the existing plant; and the extent to which the new facility is engaged in the same general type of activity as the existing source.”
- T. Nutrient Management Plan (NMP)**
means a plan, approved by Natural Resources Conservation Service (NRCS) or a Certified Nutrient Management Planning Specialist*, which, among other elements, establishes the rates at which manure or process waste water can be land applied so as to meet crop nutrient needs while minimizing the amount of pollutants discharged in agricultural return flows. The requirements for NMPs have been established by NRCS under the NRCS Conservation Practice Standard - Arizona Nutrient Management, Code 590. An NMP must contain the following minimum information: a Field Map, Soil Test Results, Crop Sequence, Realistic Yield Goals, Manure and Waste Water Nutrient Values, Recommended Application Rates, Recommended Application Methods, and Guidance for implementation, operation, maintenance and record keeping.
- U. Pollutant**
means the following as defined under 40 CFR 122.2:
“dredged spoil, solid waste, incinerator residue, filter back-wash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials..., heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste* discharged into water.”
- V. Process Waste Water**
means any process generated waste water*; and any precipitation (e.g., rain or snow) which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g., milk, eggs).
- W. Process Generated Waste Water**
means water directly or indirectly used in the operation of a feedlot for any or all of the

* indicates term defined in Part VII.

following: spillage or overflow from animal or poultry watering systems; washing, cleaning or flushing pens, barns, manure* pits or other feedlot facilities; direct contact swimming, washing or spray cooling of animals; and dust control.

X. Spill

means discharge*, usually (but not exclusively) a small, inadvertent discharge* of a toxic pollutant* or hazardous substance*.

Y. The Act

means Federal Water Pollution Control Act as amended, also known as the Clean Water Act, found at 33 USC 1251 et seq.

Z. Toxic Pollutants

means any pollutant* listed as toxic under Section 307(a)(1) of the Act*. Toxic pollutants are listed in 40 CFR 401.15, which may be obtained at the following website: <http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html#page1> by entering the following numbers: Title 40, Part 401, and Section 15 for the “most recent available” revision year. Alternatively, a paper copy of 40 CFR 401.15 may be obtained by contacting U.S. EPA Region 9’s CWA Standards and Permits Office at (415) 744-1898 or (415) 744-1922.

AA. Waste

means manure* as well as bedding, feed and other by-products of an animal feeding operation.

BB. Waste Water Control or Retention Structure

means any structure such as a pond, impoundment or lagoon used for the retention of liquid wastes* or sludges (including manure*, liquid waste, and runoff from the feedlot area) on the premises until their ultimate disposal. This includes all collection ditches, conduits and swales for the collection of runoff and waste water.

CC. Water Quality Limited Segment

means a water body identified as Water Quality Limited Segment pursuant to 40 CFR 130.7. At the time of permit issuance the most recent list of water quality limited waters in Arizona may be found in: “Arizona’s 1998 Water Quality Limited Waters List,” ADEQ, July 1998, EQR-98-8.

DD. Water Quality Standard

is defined at 40 CFR 130.2(d) as: “Provisions of State or Federal law which consist of a designated use or uses for the waters of the United States and water quality criteria for such waters based upon such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water and serve the purposes of the Act.” The State of Arizona’s water quality standards are contained in Arizona Administrative Code Title 18 (Environmental Quality) Chapter 11 (Department of Environmental Quality Water Quality Standards) Article 1 (Water Quality Standards for Surface Waters). The website where they may be found is:

http://www.sosaz.com/public_services/Title_18/18-11.htm .

* indicates term defined in Part VII.

EE. Waters of the United States

is defined at 40 CFR 122.2 as: “(a) All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide; (b) All interstate waters, including interstate "wetlands;" (c) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, "wetlands," sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters: (1) Which are or could be used by interstate or foreign travelers for recreational or other purposes; (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or (3) Which are used or could be used for industrial purposes by industries in interstate commerce; (d) All impoundments of waters otherwise defined as waters of the United States under this definition; (e) Tributaries of waters identified in paragraphs (a) through (d) of this definition; (f) The territorial sea; and (g) ``Wetlands" adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a) through (f) of this definition. Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR 423.11(m) which also meet the criteria of this definition) are not waters of the United States.”

PART VIII. AVAILABILITY OF TECHNICAL AND LEGAL REFERENCES

Hard copies or electronic versions of all citations and technical or other documents referenced in this permit may be obtained by contacting Shirin Tolle at (415) 744-1898 or Jacques Landy at (415) 744-1922.

* indicates term defined in Part VII.